

Statement by
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We are pleased to have the opportunity to testify before this committee on the subject of assisted living. As you know, in 1997 Oregon was one of four states researched by the U.S. General Accounting Office (GAO) for its report on assisted living. An independent program review is often very instructive and we openly shared information with GAO as it reviewed our policies and program.

Community Based Care Development

Oregon takes great pride in being the first state to forge a partnership with the federal government to give greater independence, dignity and a higher quality of life to members of its senior and disabled population. In 1981, Oregon became the first state to receive a federal waiver to permit use of Medicaid dollars to deliver care to people in community-based settings. We encourage the development of home and community-based care, responding to seniors' preference for greater choice and independence. Many other states have subsequently developed these options in various forms, and we have seen consistent growth in alternatives to nursing facility care.

Oregon consumers want a variety of community-based care options if they are no longer able to remain in their own homes. We have met that challenge through a variety of services and licensed residential, care options, including small adult foster homes in residential neighborhoods, larger residential care facilities, and assisted living facilities. (See Appendix B for a list of Oregon's long-term care options).

The impact of community based care alternatives for consumers has been so significant that, contrary to national trends, Oregon's nursing facility population is declining. We believe Oregon may be the only state in the nation with fewer people in nursing homes today than 10 years ago. Some Oregon nursing facilities are closing due to low occupancy. In order to remain viable, many of Oregon's nursing facilities are doing more short term, post hospital nursing and rehabilitation, or designing services to deliver specialized care for highly impaired individuals. In Oregon today, between 75 and 80 percent of Medicaid long-term care clients are served in a variety of home and community-based care settings.

The concept of community-based care has received a bipartisan embrace in Oregon. It was introduced to Oregonians by a Republican Governor and a Democratic Legislature, with the support of senior advocates such as Senator Wyden. It continues to enjoy bipartisan support because we are providing options consumers want at costs far less than institutional care.

Recent cost data show the average monthly cost for an Oregon Medicaid client (provider payments, client contributions and state staff expenses):

Nursing Facilities \$2873

Assisted Living Facilities 1937

In-Home Services 1422

Residential Care Facilities 1403

Profile of Assisted Living Residents

Assisted living has been very popular with Oregon Seniors. More than 70 percent of residents of assisted living facilities are paying with private funds. The average age of residents is 82 years, which is older than adult nursing facility residents (80). Residents also have substantial impairment, needing assistance with one or multiple activities of daily living such as dressing and grooming, bathing, toileting, mobility or eating. Many residents also have some degree of cognitive impairment. Well over half of the Medicaid eligible residents are fully dependent in some activities of daily living. This truly has become a nursing home replacement model for Oregon.

Assisted Living Facility Development

The Oregon model of assisted living developed in the late 1980's through a collaborative effort of consumer advocates, providers, and Senior and Disabled Services Division (SDSD) to meet consumer requests for new designs in residential living facilities. The model was designed to allow "aging in place," where needed services are added, increased or adjusted to meet individual's needs as they age. Consumers did not want to have to move from one care setting to another as their frailty, and needs for service, increased.

From the first rule adoption in 1989, assisted living facilities in Oregon have been licensed as 24 hour care settings. Services are required to be provided in private apartments that are disability accessible, with private baths. Services provided are flexible, but are expected to support a resident's independence, choice, individuality and privacy.

The growth of assisted living facilities in Oregon has been dramatic. Seven facilities were in existence in 1990. Now there are 106. Seventy-six (76) new facilities opened in the last four years and we project another 29 facilities will open during 1999. In spite of this growth, we do not think that we are approaching marketplace saturation and we expect to see growth continue through at least 2001, in both rural and urban Oregon.

As we watched the growth of assisted living in Oregon, we realized that the resources provided for regulatory oversight were not sufficient and were not keeping pace with growth in the industry. At that time, our staff resources were directed almost exclusively at licensing and not nearly enough on operational oversight. Consequently, in 1996 we began taking steps to address this imbalance. We approached the problem in three ways.

- We embarked on a process to rewrite state administrative rules for assisted living programs.
- We expanded staff time devoted to facility monitoring and inspection.
- We focused on improving provider and consumer education.

Rewrite of Administrative Rules

Oregon's administrative rules for assisted living facilities were originally developed in 1989. These original rules did a good job of describing the model and philosophy of assisted living as conceptualized in Oregon. They strongly promoted consumer values such as independence, privacy, and choice. They established facility environmental standards and espoused the principle of the facility providing for the

care needs of the resident as their needs changed with age. However, these original rules were not very specific in some areas. Our experience since 1989 has taught us that more specificity was necessary to help providers understand the requirements and to support consumers.

Oregon has a tradition of being inclusive when anticipating major changes in administrative rules. Consequently, in early 1997 when we assembled a committee to revise the rules for assisted living, the committee was composed of senior advocates, industry representatives, Area Agencies on Aging (AAA) and Senior and Disabled Services Division (SDSD) staff.

The committee reviewed the program design, standards of care and services, consumer advocacy issues and the challenges faced by providers in adjusting to consumer needs. This process resulted in major revisions to our rules which went into effect on April 1, 1999. The process of revising the rules was a lengthy, but extremely beneficial process. The new rules strengthen consumer rights, clarify expectations for addressing chronic care needs, and, in general, offer more guarantees for Oregon consumers of assisted living services.

Major improvements in the rules include:

- the addition of a consumer bill of rights that specifies 16 areas in which consumers are protected, including being treated with dignity and respect, having informed choices, privacy, access to records, and the ability to voice grievances.
- expanded requirements for what the facility must disclose to the consumer prior to admission.
- strengthened resident protections for situations in which a facility requests that a resident move out.
- clarification of facility responsibility for meeting the care needs of residents as their needs change over time.
- abuse reporting requirements for staff.
- establishing the use of Oregon's Nurse Practice Act as the standard for provision of health care services.
- increased training requirements for facility administrators and direct care staff.
- requirements for facility quality improvement programs.
- additional regulatory authority to prescribe staffing levels if a facility fails to meet resident needs.

In recent months, we have conducted training sessions throughout the state for providers, SDSD and AAA staff and consumer advocates to explain the new rule requirements and why they are important. We are also offering technical assistance to providers to assist them to make any needed changes to come into compliance.

Expanded Facility Monitoring and Inspection

In addition to rule changes, we have greatly strengthened our monitoring process to improve our oversight of the facilities. Monitoring teams do unannounced inspections annually and additional

inspections may be triggered at other times by complaints of poor care. We require facilities to submit plans of correction when we identify deficiencies and have increased our sanction activity for poor performers and when there is harm to a resident or great risk to residents.

Since facilities are now operating under the new rules, our inspection process is also changing to incorporate the new requirements. Some of the changes we are making include: evaluating each facility's ability to deploy sufficient staff to respond to the acuity level of residents in that facility; evaluating consumer satisfaction; and determining whether the facility is evaluating consumer satisfaction.

Oregon continues its long history, under state law, of conducting investigations of individual complaints of abuse or neglect in all licensed care settings. Local SDDS and AAA staff respond to these complaints in their communities under very tight time frames. Investigation findings are coordinated with inspection activity and may result in SDDS sanctions. In addition, case managers visit Medicaid clients in assisted living facilities, providing additional opportunities to identify potential problems.

In Oregon, the Long Term Care Ombudsman program is also active in assisted living facilities, offering consumer advocacy, informal monitoring and complaint resolution. This important service helps promote quality, resolves problems for consumers, and refers significant issues to SDDS for further action.

The message from Oregon is that we consider assisted living facilities a valuable resource for Oregonians. We have learned from experience and improved the level of support for these facilities and the degree to which we monitor them. These improvements reflect a continued commitment in Oregon to support improvements in the quality of life and quality of care that Oregonians receive in long term care settings.

Other Improvements

Oregon will also continue to promote other health care practices, such as nurse delegation, that allow a nurse to teach and support a lay care giver in a community setting. Oregon has a progressive Nurse Practice Act that allows a registered nurse to train and oversee lay care givers who deliver a variety of services that, in most parts of the country, can only be performed by a nurse. Such nurse teaching strengthens care giving systems and allows care to occur where people want to live--in residential settings such as assisted living facilities.

Oregon has learned that to support chronic care in community settings, we need to strengthen coordination between health and community-based care settings. This includes educating the medical community about supporting elderly and disabled persons in the setting of their choice. Education is important for consumers as well; to help them make the best choices of care settings to meet their needs and help them be strong advocates for their care in those settings.

We are confident the changes we have enacted, and the ongoing commitment of provider associations and advocates to work with us, will continue to improve the quality of life for Oregon's assisted living residents.

Although Oregon's regulation of assisted living facilities has changed dramatically since the GAO gathered data for its report, we look forward to the opportunity to carefully review the full report in hopes of discovering ideas and perspectives that can further improve services for Oregonians.